

REMARKS

Applicants and their attorney wish to express their gratitude to Examiner Lazorcik for the courtesy and guidance he recently extended during the personal interview. As indicated on the Examiner Interview Summary Record, the claims were discussed in relation to Peterson. During the interview, the NIST publications were also discussed. In addition, a Declaration under 37 C.F.R. 1.132 signed by Richard Peterson was shown to Examiner Lazorcik and is attached to this amendment for consideration.

Dr. Peterson is an inventor listed on U.S. Patent No. 5,878,753 currently being cited against the pending claims. Dr. Peterson is also a co-inventor listed on the above captioned application. In his Declaration, Dr. Peterson indicates that, in his opinion, one skilled in the art at the time of the invention using common sense would not have utilized a wrapping paper having a permeability greater than about 60 Coresta as required in the currently pending claims in the smoking articles disclosed in his prior patent. The '753 patent, for instance, states that one of the purposes of the invention is to provide a smoking article wrapper which significantly reduces ignition proclivity without adversely affecting smoking characteristics, such as changes in smoke delivery and taste. In this regard, in column 2 and in column 9, the '753 patent states that "if the change in permeability between the treated areas and untreated areas of the cigarette is relatively great, the smoker will discern a difference in taste and smoke delivery." Thus, Dr. Peterson concludes that when one skilled in the art views his prior patent in its entirety, there is an unmistakable teaching to minimize permeability differences between the treated areas and the untreated areas. Thus, in his opinion, one skilled in the art would not have looked to incorporating relatively high permeability wrappers, such as wrappers having a permeability of greater than about 60 Coresta, into the wrapper constructions disclosed in the '753 patent.

In the Final Office Action, various claims were also rejected under 35 U.S.C. §112. As discussed with Examiner Lazorcik, the language objected to has been removed from the claims and, in certain claims, has been replaced with language taken directly from the specification.

The Examiner's attention is also directed to claim 41 as now amended. In particular, in addition to requiring that the paper web have a permeability of greater than

about 60 Coresta, claim 41 also requires the treated areas be spaced from each other a distance of at least 10 mm. As discussed during the interview, Peterson discloses a preferred band spacing of between 5 and 10 mm (see column 6). The NIST publications submitted with Applicants' previous response indicates that higher paper porosity of a cigarette significantly affects the risk of igniting other substrates, such as upholstery materials. These conclusions contained in the reports were discussed in depth with Examiner Lazorcik. In view of these publications, one would not expect the band spacing disclosed in Peterson to increase but rather decrease when increasing the porosity of the base paper.

In summary, Applicants submit that the present application is in complete condition for allowance and that the claims patentably define over the prior art cited in the Office Action. Applicants and their attorney wish to again thank Examiner Lazorcik for the personal interview. His comments during the interview were extremely helpful.

Respectfully submitted,

DORITY & MANNING, P.A.



Timothy A. Cassidy
Reg. No. 38,024
P.O. Box 1449
Greenville, SC 29602
(864) 271-1592
(864) 233-7342

November 17, 2009

Date